REMARKS/ARGUMENTS

Applicants have received the final Office action dated November 3, 2008, in which the Examiner: 1) provisionally rejected claims 1, 2, 4, 5, 10, 11, 13 and 14 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9, 15-24 and 30 of copending Application No. 10/629,040; 2) rejected claims 1, 4-7, 10 and 13-16 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Pat. No. 6,988,139 ("*Jervis*") in view of U.S. Pat. No. 6,785,794 ("*Chase*"); 3) rejected claims 2, 3, 11 and 12 as being allegedly unpatentable over *Jervis* and *Chase* in view of U.S. Pat. No. 6,807,572 ("*Yu*"); and 4) rejected claims 8, 9, 17 and 18 as being allegedly unpatentable over *Jervis* and *Chase* in view of U.S. Pub. No. 2003/0013951 ("*Stefanescu*").

With this Response, Applicants have amended claims 1 and 10. Based on the amendments and arguments presented herein, Applicants respectfully request reconsideration and allowance of the pending claims.

I. PROVISIONAL OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Applicants have amended claims 1 and 10 to clarify that each access subsystem has a power management rank. The claims of co-pending Application No. 10/629,040 have no such limitations. For at least this reason, the provisional obviousness-type double patenting rejection should be withdrawn.

II. § 103 REJECTIONS

Amended claim 1, in part, requires "a power manager coupled to the access subsystems, the power manager selectively changes the power state of each access subsystem based on a power management rank assigned to each access subsystem." Claim 1 further requires "a transaction analyzer that determines a priority metric for an incoming access transaction to the persistent store and that transfers the incoming access transaction to one of the access subsystems by matching the priority metric to the power management ranks." In *Jervis*, there is no such power manager, power management ranks, nor transfer of transactions to access subsystems by matching a priority metric to power management ranks. *Chase* is likewise deficient with regard to these limitations.

For at least these reasons, claim 1 and its independent claims are allowable over *Jervis* and *Chase*.

Amended claim 10 requires "determining a priority metric for an incoming access transaction to a persistent store in the information system" and "selecting which of a set of access subsystems is to be used when performing the incoming access transaction by matching the priority metric to a power management rank for each access subsystem." For much the same reasons as given for claim 1, *Jervis* and *Chase* fail to teach or suggest the above limitations of claim 10. For at least these reasons, claim 10 and its dependent claims are allowable over *Jervis* and *Chase*.

Claims 4 and 5 depend from claim 1 and are allowable for the same reasons. In addition, the Examiner recognizes that *Jervis* and *Chase* fail to teach "the priority metric is based on a dollar cost associated with the incoming access transaction" (as in claim 4) and "the priority metric is based on a computational complexity associated with performing the incoming access transaction" (as in claim 5), but argues the limitations are obvious. Applicants disagree. There is no evidence to support the Examiner's assertions regarding what is well known in the art. The assertion that "greater computational complexity equates with a higher dollar cost" is not necessarily true. For example, one could provide an information system where access transactions cost the same regardless of complexity. Alternatively, one could provide an information system where access transactions having different complexities are grouped and have a group cost rather (not individual transaction costs). Alternatively, one could provide an information system where clients are charged a predetermined rate (per minute, per day, per month) without regard to the amount or the complexity of access transactions. Applicants submit that the limitations of claims 4 and 5 are not obvious and are not inherent. Further, the Examiner has not provided any objective evidence to support the assertion of what is known in the art. For at least these additional reasons, claims 4 and 5 are obvious. Claims 13 and 14 are likewise allowable for much the same additional reasons as given for claims 4 and 5.

III.   CONCLUSION

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

/Alan D. Christenson/

Alan D. Christenson
PTO Reg. No. 54,036
CONLEY ROSE, P.C.
(713) 238-8000 (Phone)
(713) 238-8008 (Fax)
ATTORNEY FOR APPLICANTS

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Dept., M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400